IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7343 OF 2005
IN
CRIMINAL APPEAL NO. -- OF 2005

The State of Maharashtra ...Applicant
V/s.
Dnyaneshwar Maruti Javsen & Anr. ...Respondents

Mrs.M.M. Deshmukh, APP for the State.
None for Respondents.

CORAM : V.M. KANADE, J.

DATED : OCTOBER 19, 2007

P.C. :-

. Heard the learned APP for the State.

2. The State has filed this appeal challenging the judgment and order passed by the Special Judge, Raigad, Alibag, whereby the learned Judge was pleased to acquit the respondents for the offences punishable under Sections 7, 11, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

3. Prosecution case is that the complainant is a mechanic and he was called upon by one Poilkar who was working in the office of Superintendent of Police to

repair the fridge and accordingly, Shri Mishra, mechanic repaired his fridge and demanded Rs.1000/- for repairing the said fridge. Shri Poilkar refused to pay the said amount and threatened him that he is working in the office of DGP. Shri Mishra, therefore, reduced the said amount and consequently, it was agreed that Shri Poilkar would pay an amount of Rs.300/-. In the meantime, accused no.1 called Shri Mishra at the police station and demanded an amount of Rs.400/- which was reduced to Rs.300/- for not registering the complaint. Accused no.1 threatened him that if the amount was not paid, he would register the complaint and arrest him. Accordingly, the complainant Mishra lodged the complaint with the ACP on 19th April, 2000 and trap was arranged on the very same day. The amount was received by accused no.2 and both accused nos.1 and 2 were arrested. Prosecution did not examine the complainant. However, panch witnesses were examined. The trial Court after appreciating the evidence on record did not accept the prosecution case and hold that the initial demand was not being proved since the complainant was not examined.

3. I have perused the impugned judgment and order as also the record which was called for. I do not see any infirmity in the order passed by the trial Court. No offence has been registered against the complainant by accused no.1. There was, therefore, no occasion for the complainant to pay Rs.300/- to accused no.1. The trial Court, after perusing the evidence of panch witnesses, has discarded initial demand by the pretrap panchnama. The posttrap panchnama also does not disclose that acceptance of the bribe by accused no.2 was at the instance of accused no.1. Further, the demand also has not been proved since accused no.1 himself did not demand the money from the complainant. Since the demand of money has not been established, entire prosecution case falls to the ground. In this view of the matter, no case is made out for grant of leave.

4. Leave, therefore, is refused. Criminal Appeal is dismissed.

(V.M. KANADE, J.)